2nd Gun Theorists Won't Give Up on RFK Slaying

Probe May Tell, Did Sirhan Act Alone

BY ROBERT L. ROSE

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Los Angeles — At 12:15 a.m. June 5, 1968, Sen. Robert F. Kennedy was shot down in the pantry of the Ambassador Hotel here on his way to a victory celebration after the California presidential primary. Twenty-five hours later he was dead.

Sirhan Bishara Sirhan, grabbed on the spot, with a gun in his hand, was indicted for murder the next day, convicted on April 17, 1969, and sentenced to death 6 days later, after a three-month trial.

Now, on Sept. 11, 1975, more than 7 years after the shooting, Robert F. Wenke, presiding judge of the Superior Court of Los Angeles, will set the rules for a new investigation to determine if Sirhan acted alone.

Before his trial, under hypnosis by Dr. Bernard L. Diamond, a defense psychiatrist, Sirhan insisted — as he did during the trial and later — that nobody else was involved:

Question: Sirhan, did anybody pay you to shoot Kennedy? Yes or no?

Answer: No.

Q: Did anybody know ahead of time that you were going to do it?

A: No.

Q: Did you think this up all by yourself?

A: Yes.

Q: Are you the only person involved in Kennedy's shooting?

A: Yes.

During the trial, after a spat with his lawyers on their insistence at bringing two young girls he liked to the stand, Sirhan demanded that his not-guilty plea be withdrawn.

"I plead guilty to murder and ask to be executed," Sirhan shouted out. "I killed Robert F. Kennedy willfully, premeditatedly, with 20 years malice aforethought."

Superior Court Judge Herbert V. Walker turned Sirhan down and told chief defense lawyer Grant Cooper to proceed with his defense of "diminished capacity" which the judge said was "the only defense possible."

The jury didn't buy the defense — which was simply that Sirhan didn't have the "capacity" to form the resolve for murder, and therefore couldn't be guilty because he was in a trance at the time and didn't know what he was doing.

After the trial, Sirhan was interviewed on television and again was asked, "Was there a plot or conspiracy?"

He answered: "If there is a conspiracy, I am completely unaware of it."

But second-gun theorists immediately went to work. A second team of defense lawyers, on appeal, contended that "extensive new physical evidence" showed that the bullet that killed Bobby Kennedy was not fired from Sirhan's gun.

The U.S. Supreme Court turned the appeal down, 7-0, without comment.

The California Supreme Court had already turned down a new trial, but reduced Sirhan's sentence to life in prison — in accordance with its own and federal rulings that capital punishment was unconstitutional.

The second-gun theorists didn't give up. Political pressure began to build.

In May last year, Los Angeles County Supervisor Baxter Ward, a former television news anchorman, began pushing to reopen the inquiry. Critics accused him of seeking publicity for his campaign for governor. The effort was stalled.

But a new defense team, headed this time by Beverly Hills attorney Godfrey Isaac, went back to the state Supreme Court and asked again for a new trial on the basis of new evidence.

"Evidence that tended to show that Sen. Robert F. Kennedy was not killed by the bullet from Sirhan's gun was deliberately, intentionally and willingly suppressed by the prosecution and their agents," they maintained.

Last Feb. 13, the high court again said no.

In May, the California Adult Authority set Feb. 23, 1986, as the date Sirhan can legally be released. In San Quentin, where he was still being held in maximum security, Sirhan was reportedly "shocked, overwhelmed at the amount of time he still has to serve."

Now 31, Sirhan would be approaching his 43d birthday (in March, 1986) and would have served 16 years and 11 months for the first degree murder of Kennedy and the wounding of other persons that night.

State Treasurer Jesse M. Unruh, a longtime California political power and state campaign chief for Kennedy (he was with Kennedy when he was shot) hit the ceiling. He demanded that the three-man adult authority be fired.

"Sirhan did not commit 'just another murder.' The record clearly indicates he planned and carried out a political assassination," Unruh declared in a letter to the Los Angeles Times.

"The .22-caliber bullets which he fired into Robert F. Kennedy did far more than kill Rose Kennedy's third son; they wiped out the votes of 1.4 million Californians cast just hours before. Those shots also destroyed the hopes of millions of other Americans, let alone of other peoples around the world.

"The act was treason — and its perpetrator should be treated as a traitor as well as a murderer."

Unruh also hit out at the sudden appearance of Allard R. Lowenstein, the former New York congressman, on the scene, demanding a new hearing and a re-firing of the supposed death gun.

Gov. Edmund G. (Jerry) Brown Jr. hired Lowenstein as an adviser, and Unruh railed that this "has given the charge (of political conspiracy in the assassination) a credibility it did not formerly have."

Five weeks ago, Acting Dist. Atty. John Howard disclosed he had received a report from a special committee of the American Academy of Forensic Sciences recommending re-examination of the bullet evidence.

The three-man committee was composed of three university professors of criminal justice: Ralph F. Turner, chairman, of Michigan State, James Osterburg of Illinois and Thomas Johnson of Kentucky.

The main question, they said, was whether the bullet that hit Kennedy in the neck matched the one that hit ABC newsman William Weisel, standing nearby, in the stomach.

Four weeks ago, Paul Schrade, one of five persons wounded in the pantry shooting, joined Lowenstein in demanding that the police department release its 10-volume summary of its assassination investigation. The Police Commission refused and was upheld Friday by Superior Court Judge Norman Dowds.

Three weeks ago, Schrade sued Sirhan for personal damages and, in a companion suit, asked for a Superior Court order to examine and test the Sirhan gun and bullets.

Two weeks ago, on motion of Baxter Ward, the Los Angeles County Board of Supervisors voted unanimously to join in the lawsuit on behalf of Schrade. CBS-TV also joined in the suit.

Judge Wenke, in a hearing that took less than five minutes, ordered the re-examination of the bullet evidence under strict controls to be worked out by attorneys for the state, for Sirhan, for Schrade, for the county and CBS and submitted to him for approval on Sept. 11.

Ward had demanded that Howard, who was Sirhan's prosecutor, not take part. As acting D.A., Howard then appointed Beverly Hills attorney Thomas P. Kranz as special counsel in the Sirhan matter.

Kranz had been an unpaid advance man for Kennedy in the 1968 campaign.

Last week, in the onrush of events, the police commission relented a little and said that while it still would not open its files it would answer specific written questions about the Sirhan investigation.

Then it was promptly embarrassed by charges by a new city councilman, Zev Yaroslavsky, that it had routinely destroyed evidence in the case, including two ceiling panels taken from the Ambassador pantry. An assistant police chief, Darry Gates, admitted it under council questioning, but argued that the items technically were not evidence since they had not been introduced at the trial.

Ted Charach, a free-lance journalist who has been involved in the conspiracy theory investigation from the start, filed a lawsuit asking that all the evidence be taken out of the hands of the police, the district attorney's office and the court clerk.

Charach produced a film, "The Second Gun," which enjoyed no success but which was shown to a meeting of the forensic academy, resulting in formation of the study committee. He also provided some of the "new evidence" cited by lawyer Isaac in his appeals and retained Vincent Bugliosi, the prosecutor of Charles Manson, to represent him in the evidence lawsuit.

The two-gun theorists argue that there are too many bullets and too many bullet holes involved for everything to have come out of Sirhan's eight-shot .22-caliber Iver-Johnson Cadet Model, Serial No. H53725.

How, they ask, does that add up if three bullets were recovered from Kennedy's body, another passed through his right jacket sleeve, three more put holes in the now-missing ceiling panels and five other persons were hit, plus that AP photo showing two police looking at a "bullet" found in a door frame? That's 13 bullets.

No, said the Los Angeles police department criminologists, in a report issued one month after the shooting. There was no bullet in the door frame and the others went like this:

No. 1 entered Kennedy's head behind the right ear. (Coroner Thomas Noguchi said it "exploded" in the brain and was the cause of death). It was recovered there. No. 2 passed through Kennedy's right shoulder pad and hit Paul Schrade in the forehead. No. 3 entered Kennedy's right rear shoulder and came to rest at the sixth cervical vertebra. No. 4 entered one inch to the right of No. 3, exited right front chest, hit a ceiling tile and was "lost somewhere in the ceiling innerspace." No. 5 hit Ira Goldstein in left rear buttock. No. 6 passed through Goldstein's left pants leg, hit cement floor and entered Irwin Stroll's leg. No. 7 struck William Weisel in the left abdomen. No. 8 hit plaster ceiling, richocheted and hit Elizabeth Evans in the forehead.

Schrade said he doesn't believe No. 2 could have hit him that way because he and the senator were facing the wrong way.

But the major attention is on No. 7, the Weisel bullet. It was in pretty good shape. As was No. 3, the one that wound up near the vertebra. So De Wayne Wolfer, now head of the LAPD Scientific Investigation Division, used them to crosscheck with sample bullets test-fired from the Sirhan gun and said they were all the same.

But another criminologist, retained by Charach, William W. Harper, 71, a man with 35 years experience, said the Kennedy bullet and the Weisel bullet didn't have the same markings — either from the marker or from the firing by the Sirhan gun.

Harper submitted an affidavit saying so 18 months after the shooting. Two years later, another criminologist, Herbert Leon Mac Donell, director of the Laboratory of Forensic Science in Corning, N.Y., came to the same conclusion. But his findings were based on Harper's photos.

The district attorney's office disputed both men saying microscopic tests, not pictures, were the only real proof. Both sides argued that the evidence had been fooled with so much it was hard to make sure of anything. The D.A. refused to act, and then came the spate of magazine articles and pressure from politicians to investigate.

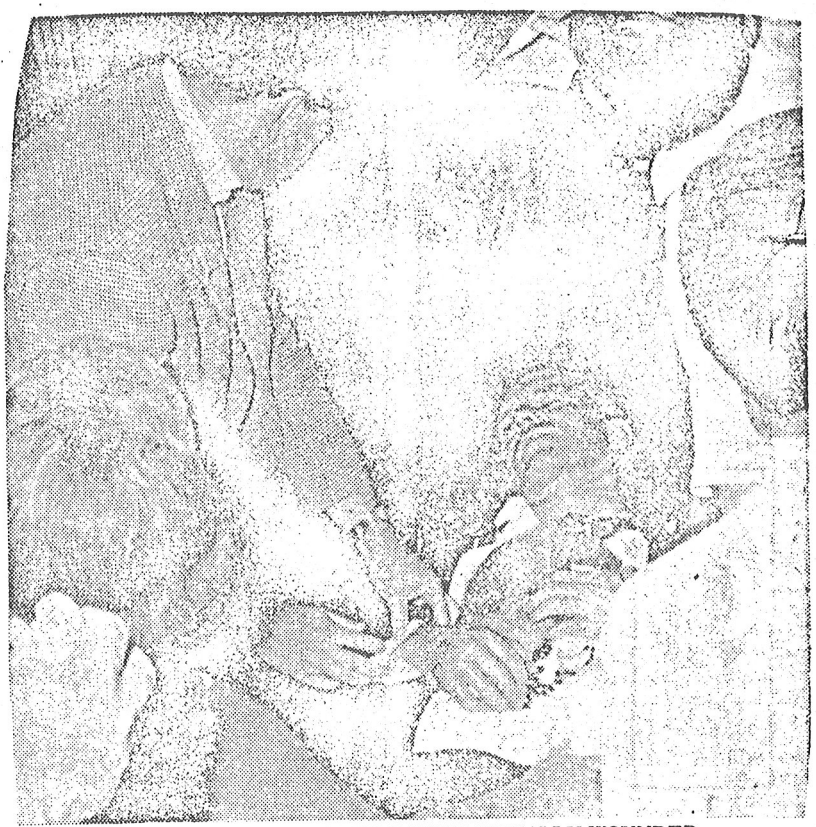
Now it will be done.

Charach, who has toured the country with his conspiracy film, once told a reporter that he was admittedly obsessive about the subject and "this is all I've thought about for years.

"I know I sound like a Johnny One Note but I'm proud of my work and I just want the truth to come out whatever it is."

But it was not until Lowenstein added his name to the fight that it really got going.

"The controversy is now out of the bottle and will not go back in," Lowenstein said.



SEN. ROBERT KENNEDY LIES MORTALLY WOUNDED
After He Was Shot in Pantry of Ambassador Hotel